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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/547,680	09/02/2005	Heinrich Hanisch	01873.200014.	9000
5514 7590 09/30/2010 FITZPATRICK CELLA HARPER & SCINTO 1290 Avenue of the Americas NEW YORK, NY 10104-3800				
EXAMINER				
EIDE, HEIDI MARIE				
ART UNIT		PAPER NUMBER		
3732				
MAIL DATE		DELIVERY MODE		
09/30/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/547,680

Applicant(s)

HANISCH ET AL

Examiner

HEIDI M. EIDE

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-32, 34-42 and 44-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-32, 34-42 and 44-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 29-32, 35, 37, 39-42, 45 and 47-48 are rejected under 35 U.S.C. 102(e) as being anticipated by Kennedy (6,694,212).
3. Kennedy discloses a computer 202, a display device 204 that is directed by the computer to display an image of a dental restoration body, the dental restoration body including a plurality of distinct dentally specific indicia, each indicium being a single, selectable unique type of dental feature, that is different from each other type of indicia (col. 2, ll. 9-16, 30-51), an input device 212 that enable a user to input a command to the computer to reference any of the plurality of distinct dentally specific indicia (any of the above cited reference to the lines or points) to select a portion of the image to be modified, the selected portion being defined by at least the distinct dentally specific indicia reference by the command and at least one design tool that enables the user to modify the selected portion in any of a plurality of directions (col. 4, ll. 19-31, col. 5, ll. 30-48, col. 6, ll. 12-27, ll. 37-48, col. 7, ll. 30-32). Kennedy further teaches wherein the plurality of distinct dentally specific indicia comprises a plurality of dentally specific lines

and points (col. 4, ll. 19-31, col. 5, ll. 30-48, col. 6, ll. 12-27, ll. 37-48, col. 7, ll. 30-32, figs. 7-13) and wherein the image of the dental restoration body further includes a preparation border (col. 5, ll. 29-49). As to claim 39, Kennedy teaches an imaging method comprising the steps of providing an image of a dental restoration body, the image of the dental restoration body including a plurality of distinct dentally specific indicia, each indicium being a single, selectable, unique type of dental feature, that is different from each other type of indicia, accepting an input command to reference any of the plurality of distinct dentally specific indicia to select a portion of the image to be modified, the selected portion being defined by at least the distinct dentally specific indicia reference by the command and modifying the selected portion with a design tool, the design tool enabling the select portion to be modified in any of a plurality of directions (col. 4, ll. 19-31, col. 5, ll. 30-48, col. 6, ll. 12-27, ll. 37-48, col. 7, ll. 30-32). With respect to claim 48, Kennedy teaches a means for displaying an image, a means for imputing a command and a means for modifying as discussed above in detail. With respect to claims 37 and 47, the applicant does not positively claim an equator, a marginal crest, a cusp and a fissure since the applicant uses the term "may" in the claim language, therefore Kennedy the proximal contact line is located between the preparation boundary and a marginal crest of a tooth which the applicant defines as an equator, therefore, one of the distinct dentally specific indicia may include an equator.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 34, 36, 44 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy (6,694,212).
6. Kennedy teaches the invention as substantially claimed and discussed above, however, does not specifically teach selecting a region between at least two of the plurality of distinct dentally specific indicia and selecting a region between the preparation border and at least one of the plurality of distinct dentally specific indicia, however, teaches any of the points or lines may be selected and modified in order to achieved the desired shape (col. 7, ll. 30-62), therefore, it would have been an obvious matter of design choice to select any point or line any wherein the dental item in order to achieved the desired contour of the final dental item.
7. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy (6,694,212) as applied to claim 29 above, and further in view of Diller (2002/0110786).
8. Kennedy teaches the invention as substantially claimed and as discussed above, however, does not specifically teach the computer directs the display device to display a plurality of symbols, each of the plurality of symbols representing a deign tool.
9. Diller teaches the computer directs the display device to display a plurality of symbols, each of the plurality of symbols representing a deign tool (par. 114, figs. 24-25). It would have been obvious to one having ordinary skill in the art in the time of the

invention to modify the computer system taught by Kennedy with the design tool display taught by Diller in order for the user to easily modify the shape of the restoration as needed.

Response to Arguments

10. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HEIDI M. EIDE whose telephone number is (571)270-3081. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Heidi Eide
Examiner
Art Unit 3732

/Heidi M Eide/
Examiner, Art Unit 3732

9/28/2010

/Cris L. Rodriguez/
Supervisory Patent Examiner, Art Unit 3732